

EX PARTE OR LATE FILED

DOCKET FILE COPY ORIGINAL



**Betsy J. Brady**  
Federal Government Affairs  
Director and Attorney

Suite 1000  
1120 20th Street, N.W.  
Washington, DC 20036  
202 457-3824  
FAX 202 457-2545

July 12, 1996

Mr. William F. Caton  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

**RECEIVED**

**JUL 12 1996**

Federal Communications Commission  
Office of Secretary

RE: Ex Parte Presentation  
CC Docket No. 96-98

Dear Mr. Caton:

Per the request of the Commission, on Friday, July 12, 1996, the attached informative material was delivered to Robert McDonald and Kalpak Gude with regard to the above-captioned docket. This material is in response to questions raised during a collocation meeting with FCC Staff on July 8, 1996.

Two copies of this Notice are being submitted to the Secretary of the FCC in accordance with Section 1.1206(a)(1) of the Commission's rules.

Sincerely,

A handwritten signature in cursive script that reads "Betsy J. Brady".

Attachment

cc: K. Gude  
R. McDonald

1000 Copies rec'd 022  
BY ABCDE



**Betsy J. Brady**  
Federal Government Affairs  
Director and Attorney

Suite 1000  
1120 20th Street, N.W.  
Washington, DC 20036  
202 457-3824  
FAX 202 457-2545

July 12, 1996

Mr. Kalpak Gude  
FCC - Common Carrier Bureau  
1919 M Street, NW  
Room 544  
Washington, DC 20554

Dear Kalpak:

The following is provided in response to your requests for information on certain issues relating to collocation.

1. Provide a proposal to verify ILEC claims of space exhaustion.

In order for an ILEC to raise a claim of space exhaustion, it must file a statement of fact with the appropriate State Public Utility Commission indicating that no physical collocation interconnection space is available for use by a requesting CLEC at the ILEC site requested by that CLEC. In these filings the ILEC must include the following information:

1. Central Office Common Language Identifier, where applicable
2. Requesting CLEC, including amount of space sought by the CLEC
3. Total amount of space at the location
4. Space at site occupied by the ILEC, as follows:
  - Total amount of space occupied by the ILEC
  - Amount of space housing in-use telecommunications equipment, including the



**Betsy J. Brady**  
Federal Government Affairs  
Director and Attorney

Suite 1000  
1120 20th Street, N.W.  
Washington, DC 20036  
202 457-3824  
FAX 202 457-2545

July 12, 1996

Mr. Robert McDonald  
FCC - Common Carrier Bureau  
1919 M Street, NW  
Room 531-B  
Washington, DC 20554

Dear Bob:

The following is provided in response to your requests for information on certain issues relating to collocation.

1. Provide a proposal to verify ILEC claims of space exhaustion.

In order for an ILEC to raise a claim of space exhaustion, it must file a statement of fact with the appropriate State Public Utility Commission indicating that no physical collocation interconnection space is available for use by a requesting CLEC at the ILEC site requested by that CLEC. In these filings, the ILEC must include the following information:

1. Central Office Common Language Identifier, where applicable
2. Requesting CLEC, including amount of space sought by the CLEC
3. Total amount of space at the location
4. Space at site occupied by the ILEC, as follows:
  - Total amount of space occupied by the ILEC
  - Amount of space housing in-use telecommunications equipment, including the

- identification of switch turnaround plans and timelines
- Amount of space housing idle telecommunications equipment, including identification of removal plans and timelines
- Amount of space used for ILEC administrative purposes
- Total amount of space which does not currently house telecommunications equipment or ILEC administrative offices but is reserved by the ILEC for future use
- Total amount, if any, of remaining space, together with a detailed description thereof

5. Space at site not occupied by the ILEC as follows:

- Total amount space occupied by interconnecting collocators (for the sole purpose of network interconnecting)
- Total amount of space occupied by third parties for purposes other than network interconnection, including a description of the uses of such space
- A detailed description of the amount and use of remaining space

6. Central office rearrangement /expansion plans - explained and identified in detail

7. Detailed description of efforts to avoid exhaustion

8. Explanation of how ILEC will (or does) provide additional services to its customers when exhaustion occurs (or occurred)

9. An affidavit by a director-level or above employee certifying the accuracy of the information provided

Immediately after filing its statement with the Public Utility Commission and the requesting CLEC, the ILEC shall allow the requesting CLEC to inspect the location in question. If the CLEC disagrees with the ILEC's statements concerning the availability of space, an audit of the site would be required to take place within 30 days of the filing. Members of the audit team would consist of at least one member from the ILEC, CLEC and Public Utilities Commission. Findings of this team would be

presented to the Public Utilities Commission within 10 days after completion of the audit, together with a recommended resolution. If the team members cannot agree, each member may separately specify its proposed resolution and supporting facts. The Public Utilities Commission must make a ruling based on its finding within 30 days. If the Public Utilities Commission determines that space is available and that the ILEC misrepresented the exhaust situation in its statement of fact, the ILEC must be subject to any and all appropriate legal penalties, including fines where appropriate and authorized. If space is found to be available, the ILEC must then notify the Public Utilities Commission and the CLEC in writing once such expedited interconnection spaces is available for uses by the CLEC.

2. Please provide a description that identifies the difference between mid-span meet and virtual collocation.

In a virtual collocation arrangement the CLEC has either purchased equipment but leased it back to the ILEC or has had the ILEC purchase the equipment on behalf of the CLEC<sup>1</sup>. In either case, that equipment resides in the ILEC central office. The CLEC directs the ILEC with respect to the use of that equipment. The ILEC maintains, tests and provisions that equipment on behalf of the CLEC for a fee. The CLEC then brings its fiber optic cable into a ILEC building which is terminated on an ILEC's light guide cross connect (LGX) passive patch panel device. The ILEC then runs tie cabling to the appropriate CLEC equipment in the central office. The circuit coming into the building is not altered in any manner. If there is trouble, it is easily identified as being before or after the patch panel with just a simple test. In the case of loop resale where the CLEC has its own switch, virtual collocation is desirable so that testing of individual lines can occur.

In a mid-span meet arrangement, the demarcation of ownership occurs outside of the central office, generally in a manhole. The fiber optic cable is spliced at the demarcation point and ownership changes. The ILEC then brings the cable into the building and terminates it on its LGX passive patch panel. If there is trouble and it is determined that it is on the incoming side of the patch panel then the splice must be undone to determine whether the trouble is before the splice and, thus, whose responsibility it is to fix the trouble. This testing is a very costly and time consuming process. In this arrangement, the CLEC has no equipment within

---

<sup>1</sup> In the case where the ILEC purchases the equipment they generally retain ownership of the equipment.

the ILEC central office. This arrangement is generally used for terminating traffic arrangements where testing of individual lines is not required.

The conclusion is that if you look at the termination on the LGX panel, there is no difference between the two cables as they enter the building. The difference is in ownership, responsibility to maintain and fix trouble, as well as the need to perform testing.

3. Does the Commission have the legal authority to prohibit ILECs from refusing to allow two CLECs that are physically collocated in ILEC space from connecting to one another within the ILEC building?

Yes. It would be patently unreasonable for an ILEC to attempt to prohibit CLEC-to-CLEC interconnection among collocating CLECs within the ILEC building or other facility. Each CLEC has the right to control its own equipment, and to choose with whom to interconnect. The prohibition the ILEC seeks to impose in this hypothetical would be anticompetitive in that it would require CLECs to incur needless additional expense to interconnect by running facilities outside of, and then back into, the ILEC building. This would be particularly unjustifiable in light of the fact that the ILEC suffers no burden by permitting a direct tie cable to connect the CLECs' facilities within the collocated space.

The 1996 Act (Section 251(c)(6)) requires ILECs to provide physical collocation "on rates, terms, and conditions that are just, reasonable, and non-discriminatory." This broad language grants the Commission clear authority to determine that the imposition by an ILEC of a "condition" to physical collocation that has the effect of raising its competitors' costs and inhibiting interconnections among carriers, while at the same time serving no legitimate countervailing interest of the ILEC, is "unreasonable" and therefore unlawful. See AT&T v. IMR Capital Corp., 888 F. Supp. 221, 255 (D. Mass. 1995) ("questions of reasonableness under the communications Act are within the special expertise of the FCC"); id. at 244 ("reasonable[ness]" requirement "essentially invites the FCC to promulgate specific policies governing the practices of the telecommunications industry").<sup>2</sup>

---

<sup>2</sup> A related question is whether CLECs may be prohibited by ILECs from engaging in "hubbing," where they connect additional equipment of their own to their collocated equipment in the collocated space. For the reasons given above, and those stated in AT&T's Comments, p. 40

Please do not hesitate to call should you have any questions regarding the information above.

Sincerely,

*Betsy J. Brady*